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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/633,664	08/07/00	KRAMER	<sup>mk</sup> J 06061 USA

023543 IM22/0329  
AIR PRODUCTS AND CHEMICALS, INC.  
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EXAMINER

COONEY, J

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 03/29/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/633,664

Applicant(s)  
Kramer

Examiner  
John Cooney

Group Art Unit  
1711



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-2 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-2 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1711

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

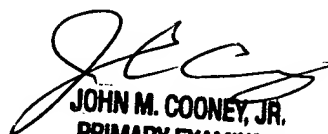
Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Genz et al.(6,197,839).

Genz et al. disclose preparations of polyurethane foams prepared from polyol, isocyanate, hydrofluorocarbons, water, surfactants, and catalyst inclusive of those claimed (see the entire document). Applicants' stabilization criteria are held to be inherent to the teachings of Genz et al. owing to the catalysts employed being similar and overlapping. In cases involving an overlap of a claimed invention and applied prior art, anticipation can arise even though an applied reference does not exemplify a species falling within the overlap. Furthermore, the number of species involved does not derogate from the teaching effects of the reference. *Ex Parte A*, 17 USPQ2d

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1717. In the instant case members of the overlapping species are such notoriously well known catalysts in the art that anticipation is held to be evident even though the overlap of catalyst species is not absolute.

Any inquiry concerning this communication should be directed to John Cooney at telephone number (703) 308-2433.

  
JOHN M. COONEY, JR.  
PRIMARY EXAMINER  
Grap 170